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Cultivating Justice for Survivors of Rape on American Farms (/full-blog/2013/11/cultivating-justice-for-survivors-of.html)



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By: Laken Gilbert, Staff Member

In America, over 500,000 women work in the fields and most are undocumented immigrants.[i] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn1) Women in the fields are especially vulnerable to unwanted sexual advances by farm supervisors.[ii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn2) It is a scarcely-reported epidemic for many reasons, including the fear of deportation and lack of alternative work. [iii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn3) No one knows how many women who work on American farms have been harassed or assaulted.[iv] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn4) However, a recent year-long investigation uncovered that since 1998, in the agriculture industry, none of the supervisors accused of assault or rape named in lawsuits filed by the Equal Employment Opportunity Commission (EEOC) have been tried in criminal court.[v] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn5) This suggests gross under-reporting in the criminal arena that must be addressed if justice is to be cultivated for survivors of rape on American farms.

In an effort to strengthen the ability of law enforcement agencies to prosecute such crimes while providing survivors protection from immediate risk of removal, Congress enacted the Victims of Trafficking and Violence Prevention Act (VTVPA) in 2000.[vi] (<http://www.blogger.com/blogger.g?>

blogID=8202935745006855383#_edn6) The law provides temporary legal status, in the form of a U-visa, for those who are survivors of qualified crimes and are likely to be helpful to law enforcement.[vii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn7) A petition for a U-visa requires, among other things,[viii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn8) certification from an appropriate law enforcement agency that the survivor is cooperating and such agencies have broad discretion when it comes to signing the certification.[ix] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn9) However, the Vera Institute of Justice reported in 2011 that in many jurisdictions, law enforcement agencies do not use U-visas regularly or efficiently.[x] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn10) The Institute cites reasons such as lack of agency protocols, insufficient training, misunderstanding of law enforcement's role in the process, and fear that using the U-visa will have negative consequences.[xi] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn11)

The plight of women farmworkers and the lack of prosecution of their offenders evidence the need for law enforcement to use U-visas more for the preservation of crucial testimony. Kris Zuniga, sergeant at a police department in rural California, says many farm workers do not get a rape exam. [xii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn12) "And a week goes by, two weeks go by, three weeks go by, and you've lost that physical evidence, so now you're down to a 'he said, she said' and those are tough, tough to prosecute." [xiii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_edn13)

Increasing law enforcement's use of U-visas can help curb the lack of evidence in a criminal case. Not only would more women come forward if U-visas were widely used, but many of them would do so sooner, better preserving physical evidence. Furthermore, by using U-visas at the investigation stage, law enforcement can be better situated when moving a case to trial by ensuring that survivor will be present to testify. To achieve this, agencies need to increase training on the implications (or lack thereof) of using U-visas and how providing that protection early on can help increase evidence against offenders. Upsetting the imbalance of power in the fields is essential if justice is to be cultivated for these survivors. Refusing to use U-visas does nothing less than to perpetuate this imbalance and puts offenders on notice that their crimes will not be pursued.

[i] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref1) Rape in the Fields, Frontline (June 25, 2013), <http://cinonline.org/rapeinthefields>.

[ii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref2) Sasha Khokha, Silenced By Status, Farm Workers Face Rape, Sexual Abuse, NPR (Nov. 5, 2013, 5:26 PM), <http://www.npr.org/2013/11/05/243219199/silenced-by-status-farm-workers-face-rape-sexual-abuse>.

[iii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref3) Id.

[iv] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref4) Id.

[v] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref5) Id.

[vi] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref6) U.S. Dept. of Homeland Security, U Visa Law Enforcement Certification Resource Guide, http://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf.

[vii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref7) Rodolfo Estrada, How Law Enforcement Is Using The U-Visa, VERA Institute of Justice (Oct. 2011) <http://www.vera.org/sites/default/files/resources/downloads/U-visa-practice-brief.pdf>.

[viii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref8) Requirements are: they have suffered "substantial physical or mental abuse" as a result of being a victim of one or more specified criminal activities; they possess information about those criminal activities; they help—or are willing to help—with the detection, investigation, or prosecution of the criminal activities; and they were victims of criminal activities that occurred in the United States or that violated the country's laws. Id.

[ix] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref9) Id.

[x] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref10) Id.

[xi] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref11) Id.

[xii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref12) Sasha Khokha, Despite Barriers, Farm Worker Breaks Silence About Rape Case, NPR (Nov. 6, 2013, 4:26 PM), <http://www.npr.org/2013/11/06/243288375/despite-barriers-farm-worker-breaks-silence-about-rape-case>.

[xiii] (http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ednref13) Id.

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Great information!!!!

Not only do we need to inform women that they have rights, we need to also inform law officials how to help these women to protect there rights and fight back quickly. Many times I have witnessed Law officials not follow protocol due to lack of knowledge.
Again Great info.

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